

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT : Kimle, et al.  
SERIAL NO : 09/335,648  
FILED : June 18, 1999  
TITLE : METHOD OF ELECTRONICALLY INITIATING AND MANAGING  
AGRICULTURAL PRODUCTION CONTRACTS  
Grp./A.U. : 2164  
Examiner : Kyle, C.  
Conf. No. : 6709  
Docket No. : P03566US0

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES OR IN A NAFTA  
OR WTO MEMBER COUNTRY TO OVERCOME CITED PATENT OR  
PUBLICATION  
(37 CFR 1.131)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**A. PURPOSE OF DECLARATION**

1. This declaration is to establish completion of the invention in this application in the United States, at a date prior to September 4, 1996, that is the effective date of the prior art patent, Walker U.S. Patent 5,794,207, that has been cited by the Examiner in the Office Action of April 27, 2001.
2. The persons making this Declaration are several inventors, who are also officers of E-Markets, Inc., the party in interest, and the President and Chief Operating Officer of E-Markets, Inc.
3. The remaining inventors are no longer with E-Markets, Inc. and their whereabouts are presently unknown.

## **B. FACTS AND DOCUMENTARY EVIDENCE**

4. To establish the date of completion of the invention of this application, the following attached documents are submitted as evidence:

Exhibit A: Reproductions of handwritten notebook entries of one of the inventors (5 pages).

Exhibit B: Reproductions of subsequent notebook entries of one of the inventors (5 pages).

Exhibit C: Reproductions of pages of a draft business plan for the assignee of all interest in the present application (8 pages).

5. From these documents, all of which were created and in existence prior to September 4, 1996, it can be seen that the invention in this application was made at least by the date of September 4, 1996, which is a date earlier than the effective date of the reference. Dates on the documents have been redacted.

6. Specifically, the documents of Exhibits A-C show the following concepts from the claims of the application:

- (a) implementation on the world wide web with a web server.

(See, e.g., Exh. A, page 1 -- "Platforms: 1) separate software... 2) WWW..."; and Exh. C, page 2 -- mock up internet browser page).

- (b) Use of a central database to store relevant information about buyers and producers

(See, e.g., Exh. A, page 4 -- "...database (and date entry).." and Exh. A, top of page 5, where different information types are mentioned "time", "price", "where", "quality", "quantity"....).

- (c) The type of data to be stored (e.g. type/ amount/ acres/ bushels of agricultural commodity) desired or committed to be produced  
(See Exh. A, pages 4-5).
- (d) Input options from prospective buyer(s)  
(See Exh. A, page 1 -- "White Corn Bid...Where...When...highest bid...expiration"; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price..."; Exh. B, page 5 -- "E-Contract...Contract pricing...").
- (e) Input options from prospective producer of the product  
(See Exh. A, page 1 -- "White Corn market...Deliverable...Where...Bid Ask..."; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price...", "delivery points"; Exh. B, page 2 -- "Members...info you need..."; Exh. B, page 3 -- "Delivery Schedule).
- (f) Generation of a contract memorializing an agreed transaction  
(See Exh. A, page 3 -- "Take contracting situation and form info. system to link to electronic transactions features"; Exh. B, page 4 -- "Contract execution..."; Exh. B, page 5 -- "E-contract..."; Exh. C, page 1 -- "Electronic input purchases and coordination...Electronic grain marketing and coordination"; Exh. C, pages 6-8).

### **C. DILIGENCE**

7. From the time of conception, to a time just prior to the date of the reference, applicants diligently moved towards a prototype and filing of applicants' application identified in the caption of this declaration.
8. Exhibits B and C occurred at a time subsequent to the documents of Exhibit A, up to July 1996, just prior to the effective date of the reference.
9. Exhibit C are pages from a business plan that occurred prior to the formation of the business E-Markets, Inc., the assignee of all interest in the present application, in October 1996.
10. In the summer of 1996 through the end of the year, work occurred on the formation of the company, planning, obtaining capital, hiring personnel, and the beginning of work towards a prototype of the invention.
11. In November 1996, a rough prototypical beginning to an actual embodiment of the invention was begun. See Exhibit D: Reproductions of early screen shots of an experimental developmental prototype of the assignee of all interest in the present application (4 pages).
12. Exhibit D shows the prototype of (a) an internet based corn contracting system (Exhibit D, page 1), (b) a screen showing steps including entry of data into a data base, including identification of a producer ("grower"), the type and amount of corn (page 2), (c ) a listing of amounts to which the grower is committed(page 1), (d) received data from the grower on goals and allocations of production (page 1), and (e) the generation of a contract between grower and buyer regarding committed amounts and willing-to-buy amounts (page 4).

13. During the first part of 1997, work continued on a prototype, including hiring of personnel to write computer code and development of computer code.
14. A first prototype was reduced to practice in July 1997.
15. The present application relies on a provisional application filing date of June 22, 1998.
16. From July 1997 to June 1998, further development of the business of E-Markets, Inc. occurred.

**D. TIME OF PRESENTATION OF THE DECLARATION**

17. This declaration is submitted prior to final rejection.

**E. DECLARATION**

18. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**F. SIGNATURE(S)**

19.

**Inventor(s)**

Full name of first inventor Kevin Kimle

Inventor's Signature Kevin Kimle

Date 8-27-0 Country of Citizenship USA

Residence 3222 Lettie St. Ames, IA 50014

Post Office Address \_\_\_\_\_

Full name of second inventor David Krog

Inventor's Signature 

Date 8-27-01 Country of Citizenship USA

Residence 546 Waterbury Circle Des Moines, IA 50312

Post Office Address \_\_\_\_\_

Full name of third inventor Reynold Harder

Inventor's Signature 

Date 8/27/01 Country of Citizenship USA

Residence 502 Ely Circle

Post Office Address Ames IA 50010

Assignee

Printed Name of Person Signing Scott Cavey

Signature of Person Signing 

Title of Person Signing President and COO

Date 8/27/01

Name of Assignee E-Markets Inc.

Post Office Address 1606 Golden Aspen Dr.

Suite 108 Ames IA 50014

Attachments to Declaration: Exhibits A-D

# **EXHIBIT A**



Elec. Cash advts. by - market food - corn corn	Grain white yellow high oil low oil accounts for storage & etc.
White Corn Market Deliverable where Bid lot Apr 96 ASK	White Corn Bid where when highest bid specifications

\* Can we have a simple tool at first elevators: few bid-asks (and farmers) - bright idea?

= Platforms:

- same back:
- 1) Special Software (hardware)
  - 2) WWW
  - 3) Fax, Daytr

\* On the animal side can we work w/ IoT & electronically link them w/ customers?

- supply chain light
- their customers use computers or have daytr to hook up.

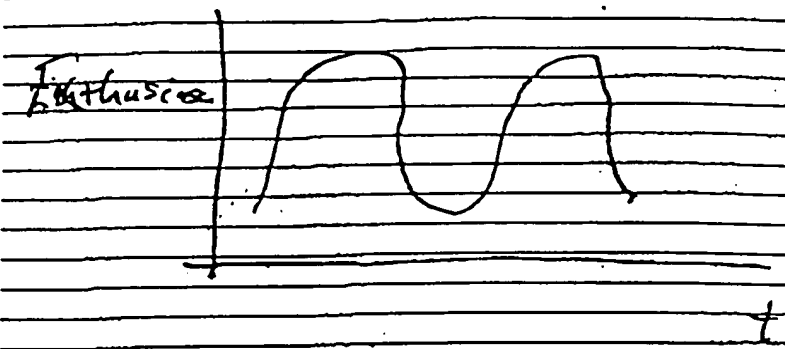
\* Dual Strategy

- An electronic "market" on the grain side
- An electronic info system on the animal side

? - or do we hook up w/ these Bus. & Pioneer to electronically manage their project?

[redacted] Dave Garry

→ WFFA tapes



→ July 1 evaluation w/ Garry

→ Dinner?

→ about one tender per 10 users as a rule

### Product 2 classes

→ Business-to-Business Transactions  
Dom Corp & Int'l corp users... or  
an end-user and some Corp

→ International Tenders  
→ more effective way of communicating  
Tenders allow for export markets  
→ only a few exporters

→ Contract process int'l system  
→ Fitch, Siskay

→ Specialties Tenders  
→ Tenders are custom for specific volumes,  
specific quality stuff

### Product Areas:

- offer  
1) Tender communication and processing  
- specific offer - non-specific customer
- 2) Business-to-Business transaction  
- specific 2 customer set-up

Product it's for from weekend

→ Take Contracting situations and focus  
info. system & link to electronic  
transactions future

→ For markets:

- 1) High Oil Cane
- 2) waxy cane
- 3) white cane
- 4) yellow high quality (Kod)

Low Crosby tidbits

\* Check out "CommerceNet"

- Iowa Institute of Cooperatives is  
doing some market stuff for  
member coops; specialty grains
- Agribusiness Association of Iowa  
also doing some activities  
→ willing to fund?

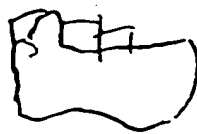
- "Revamp" - Dept. of Ag program --  
\$24,000 for bus. plan dev.

Pat Paustian Dept. of Ag  
281-6936

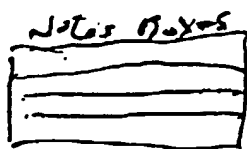
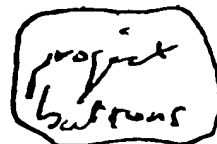
\* Sending info. on  
REVAMP program

## Contacts Database

Early ideas:



tab pages



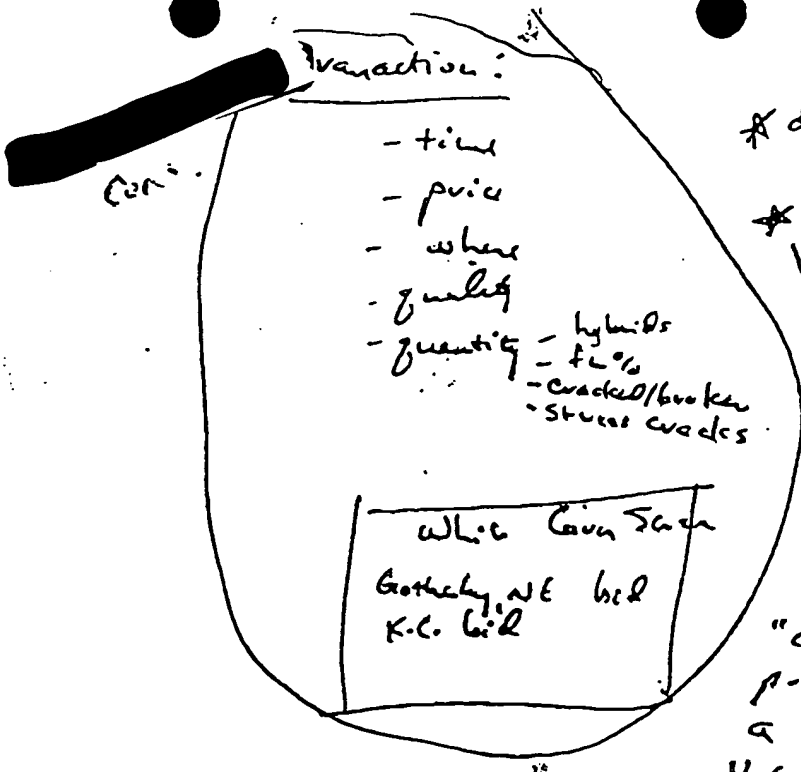
- Grouping is key relational link
- Each sector is separate database
- separate databases for survey stuff, financials, etc...

→ How can we quickly link today's ID database  
al tomorrow's Contact database??

- \* → make a separate linked database  
for 1) C. i.d. (key relational link)  
2) <sup>key</sup> Contacts, mgs., etc...  
3) Survey info

\* Start del. reorganizing the "ID"  
portion of database (and data entry)

→ linking each sector into  
separate relational links  
w/ slightly differing  
sections



\* do ask prices work?  
 \* just bidding  
 bidding is easiest  
 than volume  
 doesn't  
 become such  
 an issue  
 ↓  
 Can do a  
 "derivative"  
 price so you post  
 a bid price &  
 volume

Major Delivery Points:

- Furt → Holstein Tx, Sedgely IL, Gothic NE
- Bartlett → Kansas City + a few elevators (NE)
- Quaker → Cedar Rapids, KC + <sup>some</sup> Engell elevators (So SA)
- Winn → Red Oak
- Several in Texas - Azteca Valley - 1000
- Walesburg, TX - Texas Sweets Azteca

- WA
- IL
- IN
- IA
- SD
- CA
- TX
- NE

Little guys

\* 30-40 total  
 up locations

# **EXHIBIT B**

Dave

Frito Example

Frito

Futures

Seed

Cut Costs

- estimates
- ↳ less man-hours
  - ↳ less time sorting seed related data
  - ↳ less time getting updates on crop conditions
  - ↳ less paperwork
  - ↳ less mail, phone costs
  - ↳ less contracting through time

Better Open Market Purchases  
Better Communication  
Less precise information  
Contract Aspects:

- write it
- sell it
  - travel
  - phone
  - mail
- pricing
- Coordinate w/ growers, etc...

Settle disputes  
logistics  
delivery

High Oleic Sunflower

100,000 acres

guy in Dakota \$30/acre  
from 1.5 people (120K) = \$1.20/acre  
grower expense (200 growers) 7 harvesters \$1.5/acre  
sales & exp cost \$1.30/acre  
4 phone @ \$1 = \$4/acre

Compared to  
\$5,000 (10 acres)  
for 100 acres  
it is

Ex. B 115

Opening page

"members" at a  
couple levels --  
→ major users like Frito  
→ associated members --  
the manufacturers...  
but can view some  
information

... members



Enter Acct. &  
password

are How to Establish Acct.

## MARKETS

TL Electronic operating system  
for Ag & the Food Industry

... Members

... Frito - into you need

... Tools - to build a better  
understanding of your  
business, markets,  
& industry

... Electronic markets -  
they are set in the market  
of tomorrow... today!

- Who we are

- What we do  
- What we don't  
- Contact Us

Opening Pg. for Frito  
Manufacturers - Frito

... Frito  
... Tools  
... Electronic markets

- Contact Frito

Done & "Customize"  
but you  
\* daily updates  
\* scheduling schedule



Contract pricing

- issue a bid → a basis bid (morning)
- check prices later in the day
  - ⇒ how much is priced and who

Cont

Delivery Schedule

- Check schedule for 1st week of January
- there are gaps so

Go to F-wallet's Transactions

FYI

- Head lines
- Features
- Market News
- Stock mkt
- weather

Exec. mkt.

- or
- mkt. update
- transaction
- mkt. history

Tools

- Supply/demand estimate
- GIS maps
- Trials/hybrid info.
- Industry profiles
- Specialty Genus/
- Oilseeds mkt. Overview
- Valuation

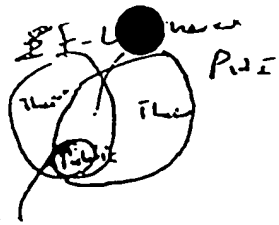
Connect

- Supplier mgt. System
- transactions
- Contract execution
- Contract status
- pricing
- delivery system
- crop conditions
- forum
- Email

- seed
- Companies
- Commercials
- hybrids details
- trials
- traits

Brokers/Dealers

Network  
View



modules

Rel on Supp  
and priority

F-Tools	F-Contract	F-CONNECT	F-INFO	F-INTEREST
-SIG	Contract exec.	Suppl. ar.	Food & Co.	Wkt. up
Est.	Contract status	→ trans	Healy	up
map	Contract pricing	→ Act. status	→ future	→ trans
Crop database	delivery system	→ delivery system	weather	Wkt. Lim...
	Forum	→ Forum	ISOA stuff	
	Crop Conditions	Comm.		
	Communic	Seed:		
		Companies		
		Crop/Seed database		
		Forum		
		Commun.		

- De Boer (sp?) in Cedar Rapids has walking the fields product from Monsanto to rpt. Crop Conditions
- Wants to work it through first
  - himself on prototype
  - Paper on Co. by Monday
  - Then is beer (plant manager)
  - Then are "group" in late Aug
  - Sept. in Dallas
- Crop exec. part of system??
- Now very interested in B. Elec. elec. sys. it, but questions how to get everyone on.

# EXHIBIT C


# Competitive and complementary delivery systems

Ex 11/8

Link/Farha Daye	Information	Communication	Transactions
	<ul style="list-style-type: none"> <li>◆ Futures price quotes</li> <li>◆ Cash price quotes</li> <li>◆ Weather forecasts</li> <li>◆ Weather maps</li> <li>◆ USDA reports</li> <li>◆ Private reports</li> <li>◆ Stock quotes</li> <li>◆ News wire</li> </ul>	<ul style="list-style-type: none"> <li>◆ Targeted messages</li> <li>◆ Farmers</li> </ul>	
Internet	<ul style="list-style-type: none"> <li>◆ Varied and extensive</li> </ul>	<ul style="list-style-type: none"> <li>◆ Unsecured two-way communication today</li> </ul>	<ul style="list-style-type: none"> <li>◆ Not yet</li> </ul>
TV/radio	<ul style="list-style-type: none"> <li>◆ Varied</li> </ul>	<ul style="list-style-type: none"> <li>◆ Broadcast messages</li> </ul>	
Periodicals	<ul style="list-style-type: none"> <li>◆ Varied</li> </ul>	<ul style="list-style-type: none"> <li>◆ Broadcast messages</li> </ul>	
Telephone	<ul style="list-style-type: none"> <li>◆ Limited</li> </ul>	<ul style="list-style-type: none"> <li>◆ Two-way one-to-one communication</li> </ul>	<ul style="list-style-type: none"> <li>◆ Tele-Marketing</li> </ul>
Personal	<ul style="list-style-type: none"> <li>◆ Targeted</li> </ul>	<ul style="list-style-type: none"> <li>◆ One-on-one</li> </ul>	<ul style="list-style-type: none"> <li>◆ Widely used</li> </ul>
Mail	<ul style="list-style-type: none"> <li>◆ Varied</li> </ul>	<ul style="list-style-type: none"> <li>◆ Two-way but slow</li> </ul>	<ul style="list-style-type: none"> <li>◆ Widely used</li> </ul>
E-Markets	<ul style="list-style-type: none"> <li>◆ Customized information depending on the need</li> </ul>	<ul style="list-style-type: none"> <li>◆ Secure e-mail</li> <li>◆ Secure document transfer</li> </ul>	<ul style="list-style-type: none"> <li>◆ Electronic input purchases and coordination</li> <li>◆ Electronic grain marketing and coordination</li> <li>◆ Electronic livestock marketing and coordination</li> <li>◆ Electronic bank transfers</li> </ul>

File Edit View Favorites Tools Help  
Address: A:\Elec Mkst.htm



The Business Center for  \is Suppliers, Partners, and Customers

## Electronic Markets

Which Market?

White Corn
Yellow Corn
Quality Grade Yellow Corn
High Oil Corn
Quality Grade Soybeans
High Methionine Soybeans

..... Choose which of the active electronic markets you wish to view

Electronic Market Update ☐ Perform Transaction ☐ Market History

[E-MARKETS HOME PAGE](#)

[Contact E-MARKETS](#)



*The Business Center for [REDACTED] its Suppliers, Partners, and Customers*

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FYI .....Information you need for your business

Tools .....Tools to build a better understanding of your markets and business

Connect .....Link to industries, suppliers, and customers through the E-MARKETS network

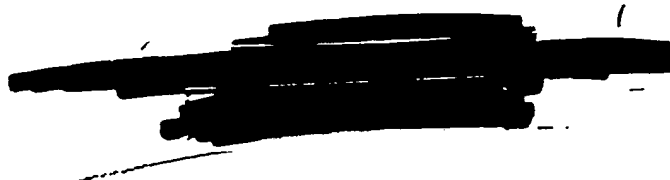
Electronic Markets .....Buy and sell in the markets of tomorrow...today!

---

**E-MARKETS HOME PAGE**

**Contact E-MARKETS**

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C 3/8





*The Business Center for [REDACTED] Its Suppliers, Partners, and Customers*

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## Electronic Markets

Which Market?

☐ ..... Choose which of the active electronic markets you wish to view

☐ Electronic Market Update ☐ Perform Transaction ☐ Market History



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**E-MARKETS HOME PAGE**

**Contact E-MARKETS**

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C 4/8







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*The Electronic Operating System for Agribusiness and the Food Industry*

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Members Entry .....Members enter their E-MARKETS Business Center

FYI ...Information you need for your business

Tools .....Tools to build a better understanding of your markets and business

Connect .....Link to industries, suppliers, and customers through the E-MARKETS network

Electronic Markets .....Buy and sell in the markets of tomorrow...today!

---

Who is E-MARKETS?

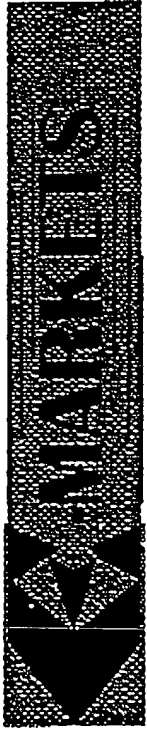
What does E-MARKETS do?

Who does E-MARKETS serve?

Contact E-MARKETS

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C 5/8



## *The Electronic Operating System for Agribusiness and the Food Industry*

### **Who is E-MARKETS?**

A company with a mission of helping individuals and organizations in agribusiness and the food industry work together more effectively in delivering products to the consumer. We are committed to connecting disparate elements of the food system through the application of cutting-edge information technologies.

E-MARKETS is a network of information, communication, and secure electronic transactions for agribusiness and the food industry. Our innovative network technologies break down information and communication barriers that exist today in the food system, and serve as the electronic operating system for emerging systems of integrated food production and delivery. We provide an efficient and secure connection across organizations and individuals. We provide a new means for organizations to interact and do business with their suppliers, their customers, and even within their own organizations. We design and develop the products and services that allow users to maximize the value of information and capabilities available through the network.

E-MARKETS has broad-based skills and experience in agribusiness and the food industry. Our skills and abilities are focused on identifying and understanding the information and business needs of agribusiness and the food industry. We then put our information and networking technology skills to work in order to address these needs.

An important source of our skills, knowledge, and experience comes from our partners and consulting associates. Our partners include leading edge network technology companies. And our consultants provide a wide range of information and communication technology, agribusiness, and food expertise.

C 6/8



## *The Electronic Operating System for Agribusiness and the Food Industry*

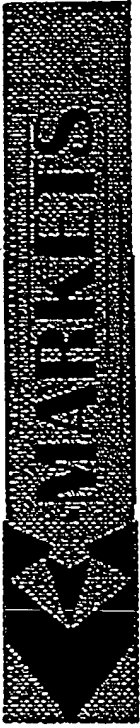
### **What does E-MARKETS do?**

We are transforming the food system by creating electronic market and coordination systems for agribusiness and food interests. We create innovative solutions for the ways individuals and organizations conduct business, and improve the means of 1) information flow, 2) communication, and 3) conducting transactions across industries.

Performance in the food system has been characterized by intense competition within industries, but very little coordination across industries. E-MARKETS is transforming the food system through its role as the electronic operating system of agribusiness and the food industry. E-MARKETS breaks down the barriers between the different industries and sectors of the food chain, to promote effective delivery of right food products to the consumer at the right price and right time.

We provide an advanced, centralized application server that provides an industrial strength platform for on-line electronic commerce and business services. Our network represents a complete solution by offering total versatility and flexibility in use, the ability to scale effectively for any size transaction, and complete security.

C 7/8



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*The Electronic Operating System for Agribusiness and the Food Industry*

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## Who does E-MARKETS serve?

We ultimately serve food consumers, and work with anyone who shares our desire to deliver the right food products, at the right time, for the right price. Our clients include a broad spectrum of ag and food interests including input suppliers, farmers, grain elevators and merchandisers, grain and food processors, food wholesalers and retailers, and ultimately consumers.

We are committed to improving information flow throughout the food system, and will continue to act as an objective conduit for its improvement. We remain steadfast in our commitments to:

- high standards of quality
- entrepreneurial activity in agribusiness and the food industry
- the absolute security and integrity of information and electronic commerce
- reliability and dependability of electronic networks
- overall excellence in delivering the food products consumers desire

C 8/8



# **EXHIBIT D**

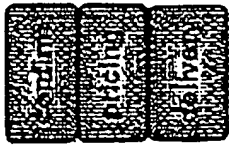


EBSHARE\WWW\ROOT\prototype\netcontract\CONTRACTconfirm.HTM



John Doe group messaging QCP database QCP Information

Contract Confirmation Summary, [REDACTED]



	26,480	40,000	66.2 %
	12,720	25,000	50.9 %
	10,440	30,000	34.8%
	3,680	15,000	24.5%
	53,320	110,000	48.5%



[illegible]

**John Doe**

此碑係清乾隆二十六年（1761）所立，碑文係乾隆皇帝御筆，內容係乾隆皇帝對西藏之政策，及對西藏之認識。碑文係用藏文、蒙古文、漢文三種文字刻成，現存於北京故宮博物院。

job design

## Contract Management

**QCE Information**

Updated 9:04 CST

scheduling	[redacted]	Joe Leeper, Goodgene	Please note the change of schedule for next week's grower meeting. We will now meet at 9:00 a.m.
contracts	[redacted]	Bob Guy, FCPA	It now appears that most contracted acres will come in above initial yield estimates.
delivery	[redacted]	Liz Smith, Logistics	We will begin scheduling specific January and February deliveries starting [redacted]
scheduling	[redacted]	Joe Leeper, Goodgene	Growers should expect a call from their Goodgene representative after [redacted]
delivery	[redacted]	Gary Sifter, Logistics	November deliveries will all shift to the South Pit because of immediate loading needs.
announce	[redacted]	Linda Kesper, Goodgene	The annual grower appreciation dinner has been shifted to [redacted] at 7:00 p.m.
contracts	[redacted]	Mark Kenney, Logistics	Estimated contract acreage for next year is 20 percent higher.



File	Edit	View	Tools	Window	Help
in\WEB SHARE\WWW\ROOT\prototype\testcontract\samplecontract.htm					

960278

960278

### Quality Corn Project

#### Agreement to Grow Corn

THIS AGREEMENT is made this \_\_\_\_\_ between \_\_\_\_\_ (hereinafter "GROWER") and Logistics Grain Company, relating to the production and delivery of corn grain from certain corn hybrid seed. GROWER and LOGISTICS are experienced and knowledgeable in the business practices involved in the cultivation and sale of corn.

#### 1. GENERAL TERMS

GROWER shall produce and deliver an "Identity Preserved" crop from SEED purchased from Goodgene Seed Company. GROWER shall produce the highest quality grain possible to satisfy the specifications in Article 3. GROWER agrees to sell and deliver the total production of GRAIN to LOGISTICS or its designee. GROWER shall take all measures to prevent contaminants during growing and handling GRAIN.

- a. GROWER agrees to grow \_\_\_\_\_ acres of GRAIN.
- b. GROWER will purchase \_\_\_\_\_ units from Goodgene seed company
- c. GROWER is to request and read the specifications and the complete Limitation of Warranty and Liability associated with the specific SEED purchased for use under this Agreement.
- d. GROWER grants LOGISTICS and/or its appointed agents free and easy access to the fields to inspect, evaluate and monitor the acreage and conditions of the crop.

D 4/4